## REMARKS

Claims 1-5 are pending in the application. The amendments to the claims have been made to further clarify the claimed invention. No new matter has been introduced, and entry of the above revised claims is respectfully requested.

At the outset, Applicant notes that the entire Office action mailed January 9, 2009 does not mention pending claims 3-5. The Examiner indicates at page 2 in the Office action that claims 1 and 2 are pending. However, new claims 3-5 were submitted with the Amendment filed October 27, 2008. It is assumed that claims 3-5 have been entered, although it is unclear whether the Examiner has considered these newly added claims on the merits. Clarification is requested.

**Premature imposition of finality**

Applicants respectfully traverse the imposition of "final" rejection status in the Action mailed January 9, 2009. It is well settled that a claim must be at least twice rejected before it is proper to impose "final" status on an Action. But in the response filed with the Request for Continued Examination on October 27, 2008, claims 1 and 2 were revised and new claims 3-5 were added so as to be directed to subject matter that was not previously directly addressed in the prosecution so far. Therefore, the rejection of the claims in the Action mailed January 9, 2009, and addressed below, is the first rejection of the particular claimed aspect.

Claims 1 and 2 were revised extensively and claims 3-5 were added to include specific steps and to further clarify the claimed invention.

Therefore, there must have been a first rejection of the these claimed aspects before the Action mailed January 9, 2009 can be considered to be the second rejection of the claimed subject matter. But no such specific rejection of these aspects was previously asserted.

Moreover, the Examiner's attention is directed to the first line at page 8 in the Office action mailed January 9, 2009, which states that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action." This language was confirmed in a telephone conversation with Examiner Gough held on April 6, 2009, in which the Examiner pointed to this specific language as the basis for her decision to make this Action a Final Rejection, which is contrary to the RCE rules. The Examiner is clearly admitting here that some aspects of the claims are being rejected here for the first time necessitated by the revisions to the

claims filed with the RCE on October 27, 2008. Therefore, Applicants respectfully submit that the assertion of "final" status is premature and may be properly withdrawn.

**Rejection Under 35 U.S.C. § 112, First Paragraph**

Claims 1and 2 have been rejected as failing to comply with the enablement requirement. In particular, the Examiner indicates that the specification provides enabling description directed to living organism, but not to carcasses. Applicants traverse this rejection. Reconsideration and withdrawal thereof are respectfully requested.

The present application provides description of solid bio-material from epidermal tissues of living tissue and carcasses for the detection of an electromagnetic signal. Treatment of a carcass is supported in the specification at least at pages 16-18. For instance, the Examiner is directed to following passage at page 16 (Amended Sheet (Art. 34)) lines 15-20:

> The object of our invention is a solid bio-material for the detection of a bio-electromagnetic signal by using epidermal tissues of living organisms by the method of: immersing the carcass of the living organism with the epidermis of living organisms, scales which have been generated from dermis, as well as the deformation of skin which came from a degeneration or keratinization of scales, fish scales, the scales or horny substances of a

Page 17 (Amended Sheet (Art. 34)) lines 8-11 states:

> Let's take a detailed look at the methods for producing the solid bio-material for the detection of a bio-electromagnetic signal by using epidermal tissues of living organisms by: immersing the carcass of the living organism with the epidermis of living organisms, scales which

As can be seen above, carcass is clearly described. Carcass is described in the specification in addition to the living organism. Therefore, a person of skill in the art would recognize that the specification discloses both carcasses and living organisms, and a different interpretation would be nonsensical.

Moreover, the Disclosure of the Invention on page 16 (Amended Sheet (Art. 34)), makes it clear that the invention seeks the creation and use of epidermal tissue that has been separated

from the rest of the organism but still has characteristics of the epidermis. One of skill in the art would understand that the invention seeks the creation of bio-material that has the characteristics of the epidermis similar to those found in living organisms and to those described in the Background Art section. In light of the above, Applicants respectfully request the Examiner to withdraw this rejection.

The Examiner has also criticized the claims for reciting "required sizes fitting the head of a probe", which the Examiner believes is not supported by the specification on page 23 (Amended Sheet (Art. 34)) because this portion of the specification teaches using a solid living bio-material on the head of a probe. Applicants traverse this criticism. Reconsideration and withdrawal thereof are respectfully requested.

In response, Applicants assert that the description on page 16 (Amended Sheet (Art. 34)) in the specification at least is directed to using both living and dead epidermis. Given the above comments regarding the use of both living organism and carcass in the inventive product and process, Applicants submit that enablement requirements have been met, and it would not require undue experimentation to use epidermis from carcass to fit on to a head of a probe. Therefore, withdrawal of this rejection is respectfully requested.

**Rejection Under 35 U.S.C. § 112, First Paragraph**

Claims 1 and 2 have been rejected as failing to comply with the written description requirement. In particular, the Examiner alleges that the specification does not support the language "aromatic oil". Applicants traverse this rejection. Reconsideration and withdrawal thereof are respectfully requested. The amended claims recite "fragrances" which finds full support in the specification notably at page 17 (Amended Sheet (Art. 34)), line 19. Thus, in light of the above revisions, Applicants respectfully submit that the grounds for this rejection are moot, and may be reconsidered and properly withdrawn.

**Rejection under 35 U.S.C. § 103(a Over Maue '522 (U.S. Patent No. 4,762,522)**

Claim 1 has been rejected as being "obvious" over Maue '522. Applicants traverse this rejection. Reconsideration and withdrawal thereof are respectfully requested.

The Examiner suggests that the '522 patent reports the removal of epidermal tissue from carcasses, soaking of the epidermal tissue in a dichromate solution known in the art to include an acid, salt and water, washing the epidermal tissue, drying the epidermal tissue, exposing the epidermal tissue to ultraviolet light, and oiling the epidermal tissue. The Examiner acknowledges that '522 does not teach the cutting of epidermal tissues from fish, fowl or tortoises into required sizes, however, the Examiner alleges that it would have been obvious to one of ordinary skill in the art to (i) obtain epidermal tissue from fish, fowl or tortoises and (ii) to cut the tissues into required sizes because such a method is known in the art for obtaining skin/epidermis/hides from animals such as cattle, chickens and etc. for the purpose of tanning. Applicants respectfully submit that the solid bio-material of the present invention consists of epidermal tissues isolated from fish, fowl and tortoise, however, in contrast, the hide reported in the cited document is distinct therefrom in that it is obtained from cow and lamb and consequently the bio-materials obtained are also different or otherwise non-analogous.

In addition, Applicants submit that one of ordinary skill would not consider the cited document in respect of a solid bio-material comprising epidermal tissues of the present invention because the cited document reports the particularly unrelated and significantly different steps of beaming, liming, bating and tanning , and, actually teaches away from the currently claimed invention embodying the use a solid bio-material comprising epidermal tissue for the detection of an electromagnetic signal because, based upon the teachings of the cited document at, for example, column 2, lines 12-20, the epidermis layer is removed by treatment with a liming solution (containing calcium oxide and calcium hydroxide) that one of skill in the relevant art would understand will destroy an epidermis. The product prepared by Maue '522 is devoid of an epidermis. Thus, Applicants submit that Maue '522 could not render the instant claims obvious because one of ordinary skill in the relevant art would derive no teaching from Maue '522 to arrive at the currently claimed invention with a reasonable (predictable) expectation of similar outcome or effectiveness.

Further, Applicants point out that the cited document is directed to the significantly distinct field of leather processing for the production of leather products which is unrelated to the current invention embodied as a solid bio-material comprising epidermal tissues prepared from fish, fowl, or tortoise for the detection of an electromagnetic signal. One of ordinary skill in the

relevant art would appreciate that preparing cow and lamb hides is distinct from the preparation of epidermal tissues of the instant invention which are for use in the detection of electromagnetic signals that require the epidermis to remain intact, and which would certainly not be used in the production of leather products. Thus, it is submitted that the cited document is not an appropriate reference with regard to the field to which the current invention pertains and its applications.

Even further, as regards claim 1, the presently claimed invention is directed to a product for detection of an electromagnetic signal that includes epidermal tissues separated from the carcasses of organisms, in which the further processed and cut epidermis senses electromagnetic signals in a detectable manner.

The Maue '522 document fails to disclose or suggest this feature, nor does this document render the presently claimed invention obvious, because the focus of Maue '522 is on making leather goods without regard to the processing requirements of an product for detection of an electromagnetic signal as in the claimed invention. Maue '522 fails to disclose or suggest making its product to be in a shape or conformation or otherwise processed so that the epidermis is sensitive to electromagnetic signal.

As regards claims 3 and 4, Maue '522 fails to disclose or suggest including melanin crystalloid. And Maue '522 fails to provide any motivation to include the crystalloids in its biomaterial because Maue '522 is simply not interested in making a product for detection of an electromagnetic signal. As a result, the Maue '522 reference fails to be applicable to the presently claimed invention, and these claims are patentable over the cited reference.

**Claims free of prior art**

Applicants note that claims 2 and dependent claims 4 and 5 are free of prior art.

**Conclusion**

It is believed that the instant application is now in condition for allowance. Applicants request the Examiner to issue a notice of Allowance in due course. The Examiner is encouraged to contact the undersigned to further the prosecution of the present invention.

The Commissioner is authorized to charge JHK Law's Deposit Account No. 502486 for any fees required under 37 CFR §§1.16 and 1.17 that are not covered, in whole or in part, by a credit card payment enclosed herewith and to credit any overpayment to said Deposit Account No. 502486.

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